2000-2001 Annual Report on the *Access to Information Act* and *Privacy Act*

Canada

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INDUSTRY CANADA

2000-2001 Annual Report on the *Access to Information Act* and the *Privacy Act*

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Minister of Industry Ministre de l'Industrie
Ottawa, Canada K1A 0H5

Her Excellency the Right Honourable Adrienne Clarkson, C.C., C.M.M., C.D.
Governor General of Canada
Rideau Hall
1 Sussex Drive
Ottawa, Ontario K1A 0A1

Your Excellency:

I have the honour to submit to Your Excellency the Annual Report on the administration of the *Access to Information Act* and the *Privacy Act* for the period April 1, 2000 to March 31, 2001, in accordance with Section 72 of the legislation. This report concerns the activities of Industry Canada.

Respectfully submitted,

Brian Tobin

Canada

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PREFACE

The *Access to Information Act* and the *Privacy Act* (Revised Statutes of Canada, Chapter A–1, 1985) were proclaimed on July 1, 1983.

The *Access to Information Act* gives Canadian citizens and permanent residents a broad right of access to information contained in government records subject to certain specific and limited exceptions. The *Privacy Act* extends to individuals the right of access to information about themselves held by the government, again subject to specific and limited exceptions. The law also protects the individual's privacy by preventing others from having access to personal information and gives individuals substantial control over its collection and use.

Section 72 of the *Access to Information Act* and Section 72 of the *Privacy Act* require that the head of every government institution shall prepare for submission to Parliament an annual report on the administration of the Acts within the institution during each financial year.

This annual report is intended to describe how Industry Canada administered its responsibilities in the 18th year of operation of the *Access to Information Act* and the *Privacy Act*.

ABOUT THE ORGANIZATION

Overview of Industry Canada

Industry Canada's mandate is to help make Canadians more productive and competitive in the knowledge-based economy, thus improving the standard of living and quality of life in Canada. The Department's policies, programs and services help grow a dynamic and innovative economy that:

- provides more and better-paying jobs for Canadians;
- supports stronger business growth through continued improvements in productivity and innovation performance; and
- gives consumers, businesses and investors confidence that the marketplace is fair, efficient and competitive.

Through its five strategic objectives (innovation, connectedness, marketplace, investment and trade), Industry Canada aims to help Canadians contribute to the knowledge economy and improve productivity and innovation performance.

To help deliver on its strategic objectives, Industry Canada is partnering with other government departments to offer businesses and consumers a variety of programs and services.

For more information about Industry Canada's initiatives, please visit the website **(http://www.ic.gc.ca/cmb/Welcomeic.nsf/ICPages/Menu-e)**.

Effective January 2001, the Canadian Tourism Commission (CTC) became a Crown Corporation and therefore, responsible for processing its own requests under the *Access to Information Act* and the *Privacy Act* (ATIP). Given the fact that all CTC requests were captured within Industry Canada's statistics over this fiscal year, it has been included as part of this annual report. Beginning April 2002, the CTC will be producing and tabling its own ATIP annual report.

Information and Privacy Rights Administration

The Director of the Information and Privacy Rights Administration (hereinafter referred to as the "ATIP Office") has been delegated authority to exercise full powers under the *Access to Information Act* and the *Privacy Act*. The Director is responsible for the development, co-ordination and implementation of effective policies, guidelines and procedures to manage the Department's compliance with these Acts. The administration of the legislation within Industry Canada is also facilitated at the branch and regional office levels. Each organizational sector has a Liaison Officer (reporting to an Assistant Deputy Minister, Regional Executive Director, etc.) who co-ordinates activities and provides guidance on the administrative processes and procedures of the Acts. All formal requests submitted under the Acts are replied to by the ATIP Office in Ottawa. The Director reports to the Assistant Deputy Minister (ADM) of Business Law who in turn reports to the Deputy Minister. In addition to the Director, the ADM Business Law and the Ethics Counsellor are also designated with full powers under both Acts.

The ATIP Office has a complement of nine full-time employees comprising one director, seven officers and one support staff, all of whom are dedicated to processing access and privacy requests along with other related functions. The ATIP staff reflects an appropriate balance between broad ATIP experience and detailed knowledge of the related policies as well as the workings of a large and multifaceted Department.

The ATIP Office is responsible for conducting consultations with other governments and other federal departments. The Department also collects, under various legislative authorities or otherwise, an appreciable amount of commercial information in confidence from both national and international companies. In the event of requests for such information, the Department will undertake appropriate notification and consultation procedures with interested parties before disclosing any records. The ATIP Office has on occasion conveyed personal information to federal investigative agencies in keeping with the provisions of the *Privacy Act*.

The ATIP Office also adjudicates on the disposition of access requests; promotes awareness of the legislation to ensure departmental responsiveness to the obligations imposed on the government; monitors and advises on departmental compliance with the Acts, regulations, procedures and policies; and acts as spokesperson for the Department in dealings with the Treasury Board Secretariat, the Information and Privacy Commissioners, and other government departments and agencies.

The Director is the departmental point of contact for the registration of Information Collection and Public Opinion Research.

Case Load

In the fiscal year 2000-2001, the Department received 505 access requests and 27 privacy requests, for a total of 532 new requests for information. In addition, the ATIP Office processed 96 consultations from other government departments.

Most if not all informal requests are dealt with directly by the Sector Branches and therefore, are not tracked by the ATIP Office. However, the ATIP Office processed four formal requests, with the consent of the requesters, on an informal basis.

In addition to the sharp rise in the total number of requests received (42 percent) over the previous year, there has been a significant increase in the scope of the requests, their complexity and the volume of documents captured. The challenge of responding to these more sophisticated and complex requests while maintaining current resource levels and expected service standards resulted in an extreme workload with high stress levels. Faced with these challenges, the ATIP personnel demonstrated high levels of positive attitude, dedication and professionalism which resulted in a 30 percent increase in the total number of cases completed over the previous year.

Other Requests

In addition to processing requests under the *Access to Information Act* and the *Privacy Act*, the ATIP Office also responds to approximately 75 to 100 requests from the general public every year. Documents requested included obtaining information about Urea Formaldehyde Foam Insulation (UFFI) and its removal from their homes. These types of requests are not included in the statistical information contained in the annexes.

In keeping with government guidelines, the Department was also consulted by 24 other government institutions in 96 cases where the records sought from these institutions related to the activities of Industry Canada. This represents an increase of 33 percent over the 1999-2000 period in which a total of 72 consultations were received. Except for the administrative costs, the statistics related to these 96 cases are not reflected in the annexes.

Fees

The *Access to Information Act* authorizes fees for certain activities related to the processing of formal requests under the Act. In addition to a $5 application fee, search, preparation and reproduction charges may also apply. The current fee structure is specified in the *Access to Information Regulations*. No fees are imposed for reviewing records, overhead or shipping costs. Moreover, in accordance with section 11 of the Act, no fees are charged for the first five hours required to search for a record or prepare any part of it for disclosure. No fees are applicable under the *Privacy Act*.

The *Access to Information Act* permits the waiving of fees when deemed to be in the public interest. In accordance with Treasury Board guidelines, the Department has routinely waived fees under $25. For fees over $25, the Department examines fee waiver requests on a case-by-case basis.

In considering such requests, the Department has taken into account costs in processing each access application and the degree of public benefit to be derived from the release of the accessible information. As indicated on page 8 of this report, the fees collected by the Department represent about 1 percent of the legislation's total administration costs.

Information Holdings

The ATIP Office is responsible for providing a full accounting of the Department's information holdings to the Treasury Board Secretariat and ensures that updates are provided on a timely basis for inclusion in the *Info Source* publications.

The *Info Source* publications contain a description of the classes of institutional records held by Industry Canada. Industry Canada does not have any exempt banks. You may find this information in the latest publications:

- *2000-2001 Info Source - Sources of Federal Government Information*
- *2000-2001 Info Source - Sources of Federal Employee Information*

Info Source can be obtained through public and academic libraries or you may view it on-line on the Treasury Board Secretariat website (**http://www.tbs-sct.gc.ca./infosource**).

Web Site

Effective January 2001, the ATIP Office also designed and implemented its own Internet site **(http://icnet.ic.gc.ca/atip-aiprp/index.htm).** At present, the site contains general information and links to other key departments and agencies.

Reading Rooms

A reading room is available in the public access area of the ATIP Office at headquarters and in all regional offices. Current departmental manuals are made available for review on request from the public. During the year, a number of individuals opted to visit the reading room to examine accessible material rather than to pay the related photocopying fees.

Part I - Access to Information

Statistical Report — Interpretation and Explanation

Annex A provides a summarized statistical report on the *Access to Information Act* applications dealt with during the period from April 1, 2000 to March 31, 2001. The following provides explanations and interpretations for information contained in this report.

I. Requests under the *Access to Information Act*

Of the 557 requests dealt with during this reporting period, 505 requests (91 percent) were new, while 52 requests (9 percent) were carried forward from the previous year.

This fiscal year, the largest number of access requests were received by organizations as denoted in Annex A. A breakdown of Industry Canada clients for 2000-2001 period is as follows:

Media	9%
Academic	0%
Business (includes professional requesters)	26%
Organization (includes political parties)	53%
Public	12%

II. Disposition of Requests Completed

Of the 557 requests dealt with, 450 requests (81 percent) were completed during the 2000-2001 reporting period. It follows that 107 requests (19 percent) remained to be processed as of March 31, 2001. The completed requests are categorized as follows:

All Disclosed — Of the 450 completed requests, the requesters were provided with total access to the relevant records in 108 cases.

Disclosed in Part — In another 179 instances, the requesters were granted partial access.

Nothing Disclosed (Excluded) — There were four requests for which information could not be disclosed because all of the information was excluded under the Act.

Nothing Disclosed (Exempted) — There were 12 requests for which information could not be disclosed because all of the information was exempted under the Act.

The cases in which no access could be provided were mostly attributable to situations beyond the control of the Department (i.e. transferred, unable to process, abandoned by applicant and treated informally — see details below).

Transferred — Of the 450 requests completed, 12 concerned records that were not under the control of the Department. After initial processing, these requests were transferred to the appropriate government institution in accordance with the Act.

Unable to Process — After initial review, the Department was unable to process requests in 90 cases.

Abandoned by Applicant — Of the completed requests, 41 were eventually considered abandoned. Such an action may occur at any stage of request processing.

Treated Informally — In four cases, it was determined that the information could be released informally rather than through the formal procedures of the Act.

III. Exemptions Invoked

As noted in Annex A, exemptions under sections 13, 14, 15, 16, 18, 19, 20, 21, 23, 24 and 26 of the *Access to Information Act* were invoked by the Department. The Annex is intended to show the types of exemptions invoked to deny access. For example, if in one request five different exemptions were used, one exemption under each relevant section would be reported for a total of five. If the same exemption is used several times for the same request, it is reported only once.

IV. Exclusions Cited

The *Access to Information Act* does not apply to published material, material available for purchase by the public or confidences of the Queen's Privy Council, pursuant to sections 68 and 69 of the Act respectively. As in the case of exemptions Annex A is intended to show the types of exclusions invoked to deny access.

V. - VI. Completion Time and Extensions

In 58 percent of completed cases, the Department was able to respond within 30 days or less. Approximately 37 percent of completed cases required extensions under the Act. Response time for cases where the Department was unable to respond within the original 30 days are as follows: 15 percent within 31 to 60 days; 15 percent within 61 to 120 days; and 12 percent over 121 days.

VII. Translations

No translations were required in dealing with these requests.

VIII. Method of Access

In 258 cases, the requesters received copies of the material they were seeking. In nine cases, the requesters examined the records in person. In 20 cases, access was provided by a combination of copies and in-person examination. It should be noted that the data in this section reflect only those requests where information was all disclosed or disclosed in part.

IX. Fees

The fees collected during the reporting period totalled $5907. In accordance with government policy, it is the Department's practice to waive fees where the total owing per request amounts to less than $25. Fees waived during 2000-2001 represented $1864.10. Fees collected in 2000-2001 are estimated to represent about 1 percent of the Department's total administration costs.

X. Costs

Total salary costs associated with *Access to Information Act* activities are estimated at $481 047 for 2000-2001. Other costs amounted to $128 107 for a total of $609 154. The associated full-time employee resources for 2000-2001 are estimated at 9.73 Department wide.

Complaints and Appeals

Complaints and Investigations

The Department received a total of 39 complaints this reporting period. Six complaints concerned delays, 15 concerned exemptions claimed, 17 concerned extensions and one concerned miscellaneous issues.

Following investigation, nine complaints were considered well-founded, 20 were judged as not substantiated, nine were discontinued and one is still pending.

Appeals to the Federal Court

One new appeal to the Federal Court of Appeal was initiated in the 2000-2001 reporting year and a hearing date has yet to be determined. Two previous appeals reported last fiscal year have been heard and final rulings are still pending.

Formal/Informal Interface

Consistent with the principle that the Act is intended to complement, rather than replace, existing procedures for access to government information, informal requests may be addressed directly to branches within the Department. Formal requests are processed by the ATIP Office.

Part II - Privacy

The ATIP Office regularly provides advice and guidance on important and sensitive policy issues, including the handling and protection of personal information gathered and held in Departmental files. Regular intra-departmental briefings along with increased exposure to privacy issues is resulting in improved awareness of the need to meet the requirements of the *Privacy Act*.

Statistical Report - Interpretation and Explanation

Annex B provides a summarized statistical report on the requests for personal information received under the *Privacy Act* that were dealt with during the period from April 1, 2000 to March 31, 2001. The following provides explanations and interpretations for information contained in this report.

I. Requests under the *Privacy Act*

A total of 27 new requests were received by Industry Canada during this reporting period.

II. Disposition of Requests Completed

Of the 20 requests completed during the 2000-2001 reporting period, they were categorized as follows:

All Disclosed — In four cases, the requesters were granted full access.

Disclosed in Part — In 14 cases, the requesters were granted partial access.

Unable to Process — After initial review, the Department was unable to process requests in two cases.

Transferred — No requests were transferred.

III. Exemptions Invoked

As noted in Annex B, exemptions pursuant to sections 22, 26 and 27 of the *Privacy Act* were invoked by the Department.

IV. Exclusions Cited

Section 70 of the *Privacy Act* was invoked once by the Department.

V. - VI. Completion Time and Extensions

In 60 percent of completed cases, the Department was able to respond within 30 days or less. Approximately 15 percent of completed cases required extensions under the Act. Response time for cases where the Department was unable to respond within the original 30 days are as follows: 25 percent were completed within 31 to 60 days; and 15 percent within 61 to 120 days.

VII. Translations

No translations were undertaken in dealing with these requests.

VIII. Method of Access

Copies of the records were given in response to 17 requests and one occasion where the applicant was provided with the right of examination and copies. It should be noted that this category reflects only those requests where the information was all disclosed or disclosed in part.

IX. Corrections and Notation

No requests for corrections or notation were received.

X. Costs

Total salary costs associated with *Privacy Act* activities are estimated at $26 530 for 2000-2001. Other costs were estimated at $6742 for a total cost of $33 272. The associated full-time employee resources for 2000-2001 are estimated at 0.5 Department wide.

Complaints and Appeals

Complaints and Investigations

The Department received a total of six complaints this reporting period. One complaint concerned exemptions claimed, two involved use and disclosure and three others related to miscellaneous issues.

Upon investigation, three complaints were considered settled and the remaining three are still pending conclusion.

Appeals to the Federal Court

There were no appeals to the Federal Court during this reporting period.

Disclosure under Paragraph 8(2)(*e*) of the *Privacy Act*

Three requests for disclosure under Section 8(2)(*e*) of the *Privacy Act* were received by the Department from federal investigative bodies for the 2000-2001 reporting period.

Use and Disclosure

The intent and requirements of the *Privacy Act* and Treasury Board guidelines regarding the collection, use, disclosure, retention and disposal of personal information are outlined in departmental directives. Departmental employees are aware of their responsibilities for the proper management of personal information holdings. Responsible sectors are also required to consult with the ATIP Office before collecting any personal information. The Department respects the Use and Disclosure Code.

Further, the ATIP Office must be notified where personal information in a personal information bank is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled, but was not identified in the statement of consistent uses published in *Info Source*.

Formal/Informal Interface

Employees of the Department continue to be able to access their personnel files on an informal basis, usually without recourse to the Director of the ATIP Office. Requests from individuals have been handled as expeditiously as possible both formally and informally.